

Internet hosting services in the normal course of business and in the form or condition in which the provider acquired the computer program. For purposes of this subsection, the purchase of the computer program by the provider qualifies as a sale for resale only if the provider offers the unrelated user a selection of computer programs that are available to the public for purchase directly from an unrelated vendor and executes a written contract with the unrelated user that specifies the name of the computer program sold to the unrelated user and includes a charge to the unrelated user for computing hardware. This subsection applies, notwithstanding Section 151.302(b), if the unrelated user purchases the right to use the computer program from the provider through the acquisition of a license and the provider does not retain the right to use the computer program under that license. The performance by the provider of routine maintenance of the computer program that is recommended or required by the unrelated vendor of the computer program does not affect the application of this subsection. In this subsection, "Internet hosting" has the meaning assigned by Section 151.108(a).

SECTION 2. The changes in law made by this Act do not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

Passed the Senate on May 4, 2015: Yeas 31, Nays 0; passed the House on May 21, 2015: Yeas 141, Nays 1, one present not voting.

Approved June 10, 2015.

Effective June 10, 2015.

DISCLOSURE OF CERTAIN INFORMATION UNDER A CONSOLIDATED INSURANCE PROGRAM

CHAPTER 427

S.B. No. 1081

AN ACT

relating to the disclosure of certain information under a consolidated insurance program.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 151.002, Insurance Code, is amended to read as follows:

Sec. 151.002. RULES. The commissioner shall adopt rules as necessary to implement and enforce *this subchapter and Subchapter B.*

SECTION 2. Subchapter A, Chapter 151, Insurance Code, is amended by adding Sections 151.003 through 151.009 to read as follows:

Sec. 151.003. INFORMATION REQUIRED TO BE PROVIDED BY PRINCIPAL BEFORE ENTERING CONSTRUCTION CONTRACT. If a construction contract requires a person to enroll in a consolidated insurance program, not later than the 10th day before the date a principal enters into the contract with the person, the principal shall provide the following information about the consolidated insurance program to the person:

(1) contact information, including phone number and e-mail address, for:

(A) the program administrator;

(B) the principal's risk manager; and

(C) the insurer's contact person for filing a claim for each type of insurance coverage provided in the program;

- (2) *the criteria for eligibility of enrollment into the program;*
- (3) *a description of the project site covered by the program coverages;*
- (4) *a summary of insurance coverages to be provided to the contractor under the program, including:*
 - (A) *the policy form number and issuing organization if the policy is a standardized insurance policy or, if the policy is not standardized, a sample policy form;*
 - (B) *per occurrence and aggregate limits of insurance coverages and any sublimits that may apply;*
 - (C) *term of coverages for each limit and sublimit, if any; and*
 - (D) *any material endorsements to the policy described under Paragraph (A);*
- (5) *a summary of insurance coverages to be provided by the contractor;*
- (6) *instructions on how to include or exclude costs of insurance provided by the program in the person's proposal for work on the construction project;*
- (7) *a description of the audit or claims procedures related to the program that may result in additional cost to a contractor, including the method of calculation for any assessment charged to a contractor related to the principal's payment of a policy deductible and any other specific cost amounts; and*
- (8) *a description of a contractor's duties related to reporting:*
 - (A) *payroll and retention of documentation; and*
 - (B) *claims and participation in safety inspections and incident reporting.*

Sec. 151.004. INFORMATION REQUIRED TO BE PROVIDED BY CONTRACTOR BEFORE ENTERING CONSTRUCTION CONTRACT. *If a construction contract requires a person to enroll in a consolidated insurance program, not later than the 10th day before the date a contractor enters into the contract with the person, the contractor must provide to the person, in an accurate form, the information listed in Section 151.003 that the contractor received under that section.*

Sec. 151.005. RELIANCE ON INFORMATION PROVIDED. *The information required under Section 151.003 must be accurate, and a person who receives the information under Section 151.003 or 151.004 may justifiably rely on the information to decide whether to enter into the construction contract.*

Sec. 151.006. FAILURE TO FURNISH. (a) *A person may not be required to enter into a construction contract that requires enrollment in a consolidated insurance program unless the person is provided the information in compliance with Section 151.003 or 151.004, as applicable. If the information required under Section 151.003 is not provided to a person within the 10-day period under Section 151.003 or 151.004, as applicable, the person may elect not to enroll in the consolidated insurance program.*

(b) *If a person elects not to enroll in the consolidated insurance program under Subsection (a), a principal or contractor may provide the person with the information required under Section 151.003 after the 10-day period under Section 151.003 or 151.004, as applicable. The person must elect whether to enroll in the consolidated insurance program not later than the 10th day after the date that the information is provided under this subsection.*

(c) *If a person elects not to enroll in the consolidated insurance program under Subsection (a) or (b) and enters into a construction contract for the construction project, the person must obtain insurance coverage for the person's work on the project that substantially complies with the coverage terms and liability limits imposed for other persons who work on the construction project but who are not insured under the consolidated insurance program.*

(d) *The principal or contractor, as applicable, shall compensate a person with whom the principal or contractor contracts and who obtains insurance coverage under Subsection (c) for the actual cost of that insurance coverage.*

Sec. 151.007. REQUEST FOR INSURANCE POLICY; DEADLINE TO PROVIDE.

(a) A contractor may request in writing from the principal, or from the party with which the contractor has a direct contractual relationship, a complete copy of the insurance policy that provides coverage for the contractor under the consolidated insurance program.

(b) The copy described by Subsection (a) must be provided to the requesting contractor not later than the later of:

(1) the 30th day after the date the request was sent; or

(2) the 60th day after the date the contractor's work covered by the consolidated insurance program begins on the construction project.

Sec. 151.008. **FAILURE TO PROVIDE INSURANCE POLICY.** It is a material breach of a contractor's construction contract if a complete copy of the insurance policy requested by the contractor under Section 151.007 is not provided before the later of:

(1) the 75th day after the date the request was sent; or

(2) the 90th day after the date the contractor's work covered by the consolidated insurance program begins on the construction project.

Sec. 151.009. **ELECTRONIC DELIVERY.** (a) On a person's express request, a principal or contractor shall provide information under this subchapter in hard copy written form.

(b) If a person does not expressly request information be provided in hard copy written form, the principal or contractor may comply with the requirements of this chapter by:

(1) transmitting the information by facsimile or e-mail; or

(2) allowing access to the information on the principal's, or the principal's agent's, Internet website.

SECTION 3. The changes in law made by this Act apply only to an original construction contract with an owner of an improvement or contemplated improvement that is entered into on or after January 1, 2016. If a construction contract with an owner of an improvement or contemplated improvement is entered into on or after January 1, 2016, the changes in law made by this Act apply to a related subcontract, purchase order contract, personal property lease agreement, consolidated insurance program, and insurance policy. If a construction contract with an owner of an improvement or contemplated improvement is entered into before January 1, 2016, that original construction contract and a related subcontract, purchase order contract, personal property lease agreement, consolidated insurance program, and insurance policy are governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 4. This Act takes effect January 1, 2016.

Passed the Senate on April 27, 2015: Yeas 29, Nays 1; the Senate concurred in House amendment on May 21, 2015: Yeas 30, Nays 1; passed the House, with amendment, on May 15, 2015: Yeas 136, Nays 3, two present not voting.

Approved June 10, 2015.

Effective January 1, 2016.

**DIRECTING PAYMENT, AFTER APPROVAL, OF CERTAIN
MISCELLANEOUS CLAIMS AND JUDGMENTS AGAINST THE
STATE OUT OF FUNDS DESIGNATED BY THIS ACT; MAKING
APPROPRIATIONS**

CHAPTER 428

S.B. No. 1280

AN ACT